IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

LA.App..No. 194 of 2002()

LAR.110/1998 of SUB COURT, PAYYANNUR
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APPELLANT: PETITIONERS
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1. SAITHUMMANTAKATH AYAKKOMBATH,
PUTHIYA PURAYIL KHADEEJA UMMA, PAYYANNUR,
KANNUR DISTRICT.

2. S.A.P. SUHARA, KHADEEJA MANZIL,
PAYYANNUR, KANNUR DISTRICT.

3. S.A.P. MUHAMMED PAROOK S/O. A.K.P. ALI
MUHAMMED HAJI, KHADEEJA MANZIL, NEAR BUS STAND,
PAYYANNUR, KANNUR DISTRICT.

4. S.A.P. SOUDA, KHADEEJA MANZIL,
PAYYANNUR, KANNUR DISTRICT

5. S.A.P. SAPHIYA, KHADEEJA MANZIL,
PAYYANNUR, KANNUR.

6. S.A.P. BEEFATHIMA, KADEEJA MANZIL,
PAYYANNUR, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS: RESPONDENT

THE SPECIAL TAHSILDAR (LA), RAILWAY,
KANNUR.

BY GOVERNMENT PLEADER SRI.K.V.MANOJKUMAR.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 24/09/2007, ALONG WITH LAA 275 OF 2002,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. Nos.194 & 275 OF 2002

Dated 24th September, 2007.

J U D G M E N T

Harun-Ul-Rashid, J.

These two appeals are filed by the claimants in L.A.R.Nos.110/98 and 20/98 respectively, on the file of the Sub Court, Payyannur. The property involved in both these references were acquired for the purpose of doubling of railway track. According to the claimants in both cases, the acquired lands are situated in Payyannur Municipality, very close to Payyannur Railway Station and having direct road access to the land covered by LAR 20/98 and having direct road facility to the land covered by L.A.R.110/98 at a stone throw distance.

2. The extent of land acquired in L.A.R.110/98 is;

R.S.390/12	-	0.0162 hect.
R.S.390/9A	-	0.0243 hect.
R.S.390/8	-	0.0729 hect.
R.S.390/1	-	0.0121 hect.
R.S.392/9	-	0.0526 hect.
R.S.392/1	-	0.0364 hect.
R.S.392/14	-	0.0015 hect.

and the extent of land acquired in L.A.R.20/98 is;

R.S.No.148/5	-	0.0260 hect.
R.S.No.148/6	-	0.0060 hect.
R.S.No.86/10	-	0.0325 hect.
R.S.No.86/10	-	0.0870 hect.

Section 4(1) notification was published on 11.4.1997 in both cases. The Land Acquisition Officer awarded land value at the rate of Rs.2,46,950/- per hectare in L.A.R.110/98 and Rs.57,250/- per hectare in L.A.R.20/98. Aggrieved by the inadequacy of compensation, at the instance of the claimants, the matter was referred to the Sub Court. According to the claimants, considering the potentiality of the land and its close proximity to the Railway Station, the land value for the similar and similarly situated properties are more than Rs.35,000/- per cent. In support of the claim for enhancement of compensation, the claimant in L.A.R.110/98 was examined as AW1 and Ext.A1 was marked. Exts.B1 to B3 were marked on the side of the respondents. After considering the question whether the claimants are entitled to enhancement in land value, the court below came to the conclusion that the claimants in the respective reference cases have failed to adduce satisfactory evidence in support of their claim for enhancement of compensation. According to the learned Judge, the property covered by Ext.A1 is not similar to that of the acquired property and that Ext.C1 commission report cannot be relied upon for the reasons stated in the judgment. The court below came to the conclusion that

claimants have not adduced any evidence to prove that Ext.A1 property and the properties acquired are similar and similarly situated.

3. We have examined and perused the judgment of the same court passed in L.A.R.123/98. That was a reference for enhancement of compensation at the instance of the claimants. The purpose of the acquisition was the same and Section 4(1) notification in that case was published on 3.6.1997. In that case, the reference court did not rely on Exts.A1 and A2 Jenm deeds in support of the claim for compensation. But the reference court relied on the evidence tendered by AW1, in which he stated that the acquired property is situated within the Payyannur Municipality hardly 1 Km. away from the Payyannur Railway Station and that it is evident from the materials available on record that several commercially important institutions are located within a radius of 2 Km. from the acquired property. In this case also, the Land Acquisition Officer awarded Rs.2,46,950/- per hectare as in the case of L.A.R.110/98. The reference court, in L.A.R.123/98 came to the conclusion that the amount awarded by the Land Acquisition Officer is highly inadequate and therefore, considering the materials on record and the prevailing

land value at the time of acquisition, the reference court refixed the land value at the rate of Rs.3,000/- per cent. Thus the value was refixed at Rs.7,41,000/- per hectare.

4. In L.A.R.110/98 also, going by the averments in the claim petition and the evidence of AW1, the acquired properties in both cases under reference are situated in Payyannur Municipality very close to Payyannur Railway Station, having direct road access to the land covered by LAR 20/98 and having road facility to the land covered by LAR 110/98. The acquired properties are very close to various Government institutions and other commercial establishments. Since the Land Acquisition Officer found that the properties covered by LAR 110/98 and LAR 123/98 are of the same value, we are of the view that the claimants in LAR 110/98 also are entitled to enhancement of land value at the rate fixed in LAR 123/98. Accordingly we refix the land value in LAR 110/98 at the rate of Rs.7,41,000/- per hectare (Rs.3,000/- per cent). The land value fixed by the Land Acquisition Officer in LAR 20/98 is Rs.57,250/- per hectare and the same was not enhanced by the reference court. In the view taken in LAR 110/98, the claimants in LAR 20/98 are also entitled to a proportionate increase in the land value. In the

circumstances, we hold that the claimants in LAR 20/98 are entitled to land value refixed at the rate of ¼ of the land value fixed in LAR 110/98. Accordingly, we allow the appeal and modify the judgment and decree passed by the court below. The claimants in LAR 110/98 are entitled to land value refixed at the rate of Rs.7,41,000/- per hectare(Rs.3,000/- per cent) and the claimants in LAR 20/98 will be entitled to ¼ of Rs.7,41,000/- per hectare. The claimants are also entitled to all eligible statutory benefits including interest on solatium.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

L.A.A. Nos.194 & 275 OF 2002

J U D G M E N T

Dated 24th September, 2007.